

§ 1549.5

49 CFR Ch. XII (10–1–11 Edition)

§ 1549.5 Adoption and implementation of the security program.

(a) *Security program required.* No person may screen cargo to be tendered to an aircraft operator operating under a full program under part 1544, a foreign air carrier operating under § 1546.101(a) or (b), or an indirect air carrier operating under § 1548.5 for carriage on a passenger aircraft, unless that person holds and carries out an approved security program under this part.

(b) *Content.* Each security program under this part must—

(1) Provide for the security of the aircraft, as well as that of persons and property traveling in air transportation against acts of criminal violence and air piracy and against the introduction into the aircraft of any unauthorized explosive, incendiary, and other destructive substance or item as provided in the certified cargo screening facility's security program;

(2) Be designed to prevent or deter the introduction of any unauthorized explosive, incendiary, and other destructive substance or item onto an aircraft; and

(3) Include the procedures and description of the facilities and equipment used to comply with the requirements of this part.

(c) *Employees and agents.* The certified cargo screening facility must ensure that its employees and agents carry out the requirements of this chapter and the certified cargo screening facility's security program.

(d) *Facility's security program.* The certified cargo screening facility standard security program together with approved alternate procedures and amendments issued to a particular facility constitutes that facility's security program.

(e) *Availability.* Each certified cargo screening facility must:

(1) Maintain an original of the security program at its corporate office.

(2) Have accessible a complete copy, or the pertinent portions of its security program, or appropriate implementing instructions, at its facility. An electronic version is adequate.

(3) Make a copy of the security program available for inspection upon the request of TSA.

(4) Restrict the distribution, disclosure, and availability of information contained in its security program to persons with a need to know, as described in part 1520 of this chapter.

(5) Refer requests for such information by other persons to TSA.

§ 1549.7 Approval, amendment, renewal of the security program and certification of a certified cargo screening facility.

(a) *Initial application and approval.*—

(1) *Application.* Unless otherwise authorized by TSA, each applicant must apply for a security program and for certification as a certified cargo screening facility at a particular location, in a form and a manner prescribed by TSA not less than 90 calendar days before the applicant intends to begin operations. TSA will only approve a facility to operate as a CCSF if it is located in the United States. The CCSF application must be in writing and include the following:

(i) The business name; other names, including doing business as; state of incorporation, if applicable; and tax identification number.

(ii) The name of the senior manager or representative of the applicant in control of the operations at the facility.

(iii) A signed statement from each person listed in paragraph (a)(1)(ii) of this section stating whether he or she has been a senior manager or representative of a facility that had its security program withdrawn by TSA.

(iv) Copies of government-issued identification of persons listed in paragraph (a)(1)(ii) of this section.

(v) The street address of the facility where screening will be conducted.

(vi) A statement acknowledging and ensuring that each individual and agent of the applicant, who is subject to training under § 1549.11, will have successfully completed the training outlined in its security program before performing security-related duties.

(vii) Other information requested by TSA concerning Security Threat Assessments.

(viii) A statement acknowledging and ensuring that each individual will successfully complete a Security Threat Assessment under § 1549.111 before the

applicant authorizes the individual to have unescorted access to screened cargo or to screen or supervise the screening of cargo.

(2) *Standard security program and assessment.* (i) After the Security Coordinator for an applicant successfully completes a security threat assessment, TSA will provide to the applicant the certified cargo screening standard security program, any security directives, and amendments to the security program and other alternative procedures that apply to the facility. The applicant may either accept the standard security program or submit a proposed modified security program to the designated official for approval. TSA will approve the security program under paragraphs (a)(3) and (a)(4) of the section or issue a written notice to modify under paragraph (a)(4) of this section.

(ii) An applicant must successfully undergo an assessment by TSA.

(3) *Review.* TSA will review a facility at a particular location to determine whether—

(i) The applicant has met the requirements of this part, its security program, and any applicable Security Directive;

(ii) The applicant has successfully undergone an assessment by TSA;

(iii) The applicant is able and willing to carry out the requirements of this part, its security program, and an applicable Security Directive;

(iv) The approval of such applicant's security program is not contrary to the interests of security and the public interest;

(v) The applicant has not held a security program that was withdrawn within the previous year, unless otherwise authorized by TSA; and

(vi) TSA determines that the applicant is qualified to be a certified cargo screening facility.

(4) *Approval and certification.* If TSA determines that the requirements of paragraph (a)(4) of this section are met and the application is approved, TSA will send the applicant a written notice of approval of its security program, and certification to operate as a certified cargo screening facility.

(5) *Commencement of operations.* The certified cargo screening facility may

operate under a security program when it meets all TSA requirements, including but not limited to an assessment by TSA, successful completion of training, and Security Threat Assessments by relevant personnel.

(6) *Duration of security program.* The security program will remain effective until the end of the calendar month three years after the month it was approved or until the program has been surrendered or withdrawn, whichever is earlier.

(7) *Requirement to report changes in information.* Each certified cargo screening facility under this part must notify TSA, in a form and manner approved by TSA, of any changes to the information submitted during its initial application.

(i) The CCSF must submit this notification to TSA not later than 30 days prior to the date the change is expected to occur.

(ii) Changes included in the requirement of this paragraph include, but are not limited to, changes in the certified cargo screening facility's contact information, senior manager or representative, business addresses and locations, and form of business facility.

(iii) If the certified cargo screening facility relocates, TSA will withdraw the existing certification and require the new facility to undergo a validation and certification process.

(b) *Renewal Application.* Upon timely submittal of an application for renewal, and unless and until TSA denies the application, the certified cargo screening facility's approved security program remains in effect.

(1) Unless otherwise authorized by TSA, each certified cargo screening facility must timely submit to TSA, at least 30 calendar days prior to the first day of the 36th anniversary month of initial approval of its security program, an application for renewal of its security program in a form and a manner approved by TSA.

(2) The certified cargo screening facility must demonstrate that it has successfully undergone a revalidation of its operations by TSA prior to the first day of the 36th anniversary month of initial approval of its security program.

(3) The application for renewal must be in writing and include a signed statement that the certified cargo screening facility has reviewed and ensures the continuing accuracy of the contents of its initial application for a security program, subsequent renewal applications, or other submissions to TSA confirming a change of information and noting the date such applications and submissions were sent to TSA, including the following certification:

[Name of certified cargo screening facility] (hereinafter “the CCSF”) has adopted and is currently carrying out a security program in accordance with the Transportation Security Regulations as originally approved on [Insert date of TSA initial approval]. In accordance with TSA regulations, the CCSF has notified TSA of any new or changed information required for the CCSF’s initial security program. If new or changed information is being submitted to TSA as part of this application for reapproval, that information is stated in this filing.

The CCSF understands that intentional falsification of certification to an aircraft operator, foreign air carrier, indirect air carrier, or to TSA may be subject to both civil and criminal penalties under 49 CFR part 1540 and 18 U.S.C. 1001. Failure to notify TSA of any new or changed information required for initial approval of the CCSF’s security program in a timely fashion and in a form acceptable to TSA may result in withdrawal by TSA of approval of the CCSF’s security program.

(4) TSA will renew approval of the security program if TSA determines that—

(i) The CCSF has met the requirements of this chapter, its security program, and any Security Directive; and

(ii) The renewal of its security program is not contrary to the interests of security and the public interest.

(5) If TSA determines that the certified cargo screening facility meets the requirements of paragraph (b)(3) of this section, it will renew the certified cargo screening facility’s security program and certification. The security program and certification will remain effective until the end of the calendar month three years after the month it was renewed.

(c) *Amendment requested by a certified cargo screening entity or applicant.* A certified cargo screening facility or applicant may file a request for an

amendment to its security program with the TSA designated official at least 45 calendar days before the date it proposes for the amendment to become effective, unless the designated official allows a shorter period. Any certified cargo screening facility may submit to TSA a group proposal for an amendment that is on behalf of it and other certified cargo screening facilities that co-sign the proposal.

(1) Within 30 calendar days after receiving a proposed amendment, the designated official, in writing, either approves or denies the request to amend.

(2) TSA may approve an amendment to a certified cargo screening facility’s security program, if the TSA designated official determines that safety and the public interest will allow it, and if the proposed amendment provides the level of security required under this part.

(3) Within 30 calendar days after receiving a denial of the proposed amendment, the certified cargo screening facility may petition TSA to reconsider the denial. The CCSF must file the Petition for Reconsideration with the designated official.

(4) Upon receipt of a Petition for Reconsideration, the designated official either approves the request to amend or transmits the petition, together with any pertinent information, to TSA for reconsideration. TSA will dispose of the petition within 30 calendar days of receipt by either directing the designated official to approve the amendment or by affirming the denial.

(d) *Amendment by TSA.* TSA may amend a security program in the interest of safety and the public interest, as follows:

(1) TSA notifies the certified cargo screening facility, in writing, of the proposed amendment, fixing a period of not less than 30 calendar days within which the certified cargo screening facility may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the designated official notifies the certified cargo screening facility of any amendment adopted or rescinds the notice of amendment. If the

amendment is adopted, it becomes effective not less than 30 calendar days after the certified cargo screening facility receives the notice of amendment, unless the certified cargo screening facility disagrees with the proposed amendment and petitions the TSA to reconsider, no later than 15 calendar days before the effective date of the amendment. The certified cargo screening facility must send the petition for reconsideration to the designated official. A timely Petition for Reconsideration stays the effective date of the amendment.

(3) Upon receipt of a Petition for Reconsideration, the designated official either amends or withdraws the notice of amendment, or transmits the Petition, together with any pertinent information, to TSA for reconsideration. TSA disposes of the Petition within 30 calendar days of receipt, either by directing the designated official to withdraw or amend the notice of amendment, or by affirming the notice of amendment.

(e) *Emergency amendments.* (1) If TSA finds that there is an emergency requiring immediate action, with respect to aviation security that makes procedures in this section contrary to the public interest, the designated official may issue an emergency amendment, without the prior notice and comment procedures described in paragraph (d) of this section.

(2) The emergency amendment is effective without stay on the date the certified cargo screening facility receives notification. TSA will incorporate in the notification a brief statement of the reasons and findings for the emergency amendment to be adopted.

(3) The certified cargo screening facility may file a Petition for Reconsideration with the TSA no later than 15 calendar days after TSA issued the emergency amendment. The certified cargo screening facility must send the Petition for Reconsideration to the designated official; however, the filing does not stay the effective date of the emergency amendment.

[74 FR 47706, Sept. 16, 2009, as amended at 76 FR 51868, Aug. 18, 2011]

Subpart B—Operations

§ 1549.101 Acceptance, screening, and transfer of cargo.

(a) *Preventing or deterring the carriage of any explosive or incendiary.* Each certified cargo screening facility must use the facilities, equipment, and procedures described in its security program to prevent or deter the carriage onboard an aircraft of any unauthorized explosives, incendiaries, and other destructive substances or items in cargo onboard an aircraft, as provided in the facility's security program.

(b) *Screening and inspection of cargo.* Each certified cargo screening facility must ensure that cargo is screened and inspected for any unauthorized explosive, incendiary, and other destructive substance or item as provided in the facility's security program before it is tendered to another certified cargo screening facility, an aircraft operator with a full program under part 1544, a foreign air carrier operating under §§1546.101(a) or (b), or an indirect air carrier operating under §1548.5 for transport on a passenger aircraft. Cargo that the facility represents as screened, must be screened in accordance with this part.

(c) *Refusal to transport.* Each certified cargo screening facility must refuse to offer to another certified cargo screening facility, an aircraft operator with a full program under part 1544, a foreign air carrier operating under §§1546.101(a) or (b), or an indirect air carrier operating under §1548.5 for transport on a passenger aircraft any cargo, if the shipper does not consent to a search or inspection of that cargo in accordance with this part, or parts 1544, 1546, or 1548 of this chapter.

(d) *Chain of custody.* Each certified cargo screening facility must protect the cargo from unauthorized access from the time it is screened until the time it is tendered to another certified cargo screening facility as approved by TSA, an indirect air carrier under 49 CFR part 1548, an aircraft operator under part 1544, or a foreign air carrier under part 1546.